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THE CORPORATION TRUST COMPANY AND ASSOCIATED COMPANIES

In the incorporation, qualification and statutory representation of corporations, The Corporation Trust Company, C T Corporation System and associated companies deal with and act for lawyers exclusively.

Partnerships which existed in New York on September 1, 1939, have until March 1, 1940 in which to file, under Sec. 440-b, Penal Law, as added by L. 1939, Ch. 491, a certificate with the Clerk of the county or counties in which the partnership business is conducted, provided such certificates have not already been filed. Partnerships commencing business at any time after September 1, 1939, are obliged to file such a certificate before engaging in business.

The New York Supreme Court, Appellate Division, First Department, has ruled that jurisdiction through substituted service could not be acquired by the Municipal Court of New York City where a New York company merely had a branch office there and its principal office in the state was located elsewhere. (See page 103.)

On January 16, the Supreme Court of Wisconsin ruled that the Wisconsin Privilege Dividend Tax was invalid as applied to foreign corporations.

The Supreme Court of Delaware on January 16 reversed the rulings of the Court of Chancery in *Havender et al. v. Federal United Corporation,* by dismissing the bill of complaint in an action seeking to have declared void, as to complainants, a merger of Delaware parent and subsidiary companies where accrued dividends upon complainants' shares of the parent company's preferred stock remained unpaid.

Raymond Kenway

President.

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The Corporation Journal is published by The Corporation Trust Company, monthly, except in July, August, and September. Its purpose is to provide, in systematic and convenient form, brief digests of significant current decisions of the courts, and the more important regulations, rulings or opinions of official bodies, which have a bearing on the organization, maintenance, conduct, regulation, or taxation of business corporations. It will be mailed regularly, postpaid and without charge, to lawyers, accountants, corporation officials, and others interested in corporation matters, upon written request to any of the company's offices (see next page).

When it is desired to preserve The Journal in a permanent file, a special and very convenient form of binder will be furnished at cost ($1.50).

Contents for February

What Constitutes Doing Business*

Purchasing Goods - - Necessity of Qualification

The question frequently arises as to whether the activities of a foreign corporation in entering a state to make purchases constitutes "doing business" there so as to require that the corporation be licensed before making such purchases.

Although purchasing is usually an essential part of a corporation's business, it is selling, rather than purchasing, which is before the courts in the majority of "doing business" cases, probably because the question of "doing business" arises most frequently in suits in which foreign corporations seek to recover payment for goods sold.

It has been held that a single purchase, or even occasional purchases, made within a state does not amount to "doing business" there.[1]

The setting up within a state of an established agency for the regular and systematic purchase of goods has been held to amount to the doing of business so as to make qualification necessary.[2]

The purchasing of goods within a state, followed by the sale and delivery of those goods to customers within the same state, of course, constitutes carrying on business there.[3]

The most general exception appears to be that if the purchase is made with the understanding that the goods purchased are to be shipped to another state and the goods are so shipped immediately after the purchase is effected, the transaction is one in interstate commerce and licensing or qualification is not necessary.[4] It is to be observed, however, that, generally this rule will not apply to situations which do not come strictly within its terms. For instance, if purchases in a state are followed by the assembling and temporary storing of the goods purchased before shipment out of the state is accomplished, this has been held to be doing an intrastate business, which would subject an unlicensed foreign corporation to a penalty for its failure to be authorized to do business.[5] Under such circumstances, the transactions are regarded as being completed within the state before the interstate commerce begins and are thus local transactions.[6]

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[1] *Dover Lumber Co. v. Whitcomb et al.*, (Montana) 54 Mont. 141, 168 Pac. 947; *Schultz v. Long Island Machinery & Equipment Co., Inc.*, (Louisiana) 173 So. 569.

[2] *Meade Fibre Co. v. Varn et al.*, (South Carolina) 3 F. 2d 520; *Billingslea Grain Co. v. Howell*, (Texas) 205 S. W. 671.

[3] *R. J. Brown Co. v. Grosjean*, (Louisiana) 180 So. 634.

[4] *Dahnke-Walker Milling Co. v. Bondurant*, (Kentucky) 257 U. S. 282; *Logan-Pocahontas Fuel Co. v. Camp*, (Kentucky) 246 S. W. 433; *Union Cotton Oil Co. v. Patterson*, (Mississippi) 116 Miss. 802, 77 So. 795; *MacNaughton Co. v. McGirl*, (Montana) 20 Mont. 124, 49 Pac. 651; *Consolidated Pipe Line Co. v. British American Oil Co., Ltd.*, (Oklahoma) 21 P. 2d 762; *Flanagan v. Federal Coal Co.*, (Tennessee) 45 S. Ct. 233, 267 U. S. 222; *Italy Cotton Oil Co. v. Southern Cotton Oil Co.*, (Texas) 13 S. W. 2d 438; *Kansas City Wholesale Grocery Company v. Weber Packing Corporation*, (Utah) 73 P. 2d 1272; *Parker-Harris Co. v. Kissel Motor Car Co.*, (Wisconsin) 163 N. W. 141.

[5] *Sunlight Produce Company v. State*, (Arkansas) 35 S. W. 2d 342.

[6] *State v. Pioneer Creamery Co.*, (Missouri) 245 S. W. 361.

* *See page 118 for a list of pamphlets obtainable on this important subject.*

Domestic Corporations

California.

Funds raised by assessment against shares, duly authorized by amendment of articles, may be used to pay debts of company owed at time of assessment, regardless of when debts were incurred. At the time plaintiff acquired his shares in defendant corporation, the stock was nonassessable. Subsequently the articles were amended to permit the levy of assessments by the board of directors. An assessment was then made. Plaintiff protested and brought this action to annul it. He pointed out that the assessment was for debts existing prior to the amendment of the articles and contended such an assessment was improper. The California Supreme Court affirmed a judgment for the defendant corporation saying: "When plaintiff became a stockholder he knew that under the law then in existence the power of assessment could be conferred on the corporation by amendment of the articles, and that this power could be exercised to raise funds for the *corporation*, for the purpose of paying any debts of the corporation owed at the time the assessment was levied, regardless of when they were incurred. No violation of his constitutional rights was involved in the making of that assessment." *Wilson v. Cherokee Drift Mining Company et al.*, 92 P. 2d 802. Commerce Clearing House Court Decisions Requisition No. 220910. Sterling Carr of San Francisco, for appellant. J. F. Good of Oroville, for respondents.

New Jersey.

Accounting granted against officers and directors of close corporation who held all of corporate stock except that owned by complainants. The individual defendants held all of the stock of the defendant close corporation except that owned by the complainants, who sought an accounting, alleging that, with the exception of the first meeting of stockholders and directors which had been held shortly after the articles of incorporation had been filed and of another meeting held ten years later, there had been no stockholders' or board meetings. There were also allegations of complete control over the company's affairs by the defendants, who had denied complainants financial statements and access to the corporate records. It was also contended that there had been misuse of the corporate funds and credit by the defendants, who were officers and directors of the company. The Court of Chancery ruled that complainants were entitled to an accounting, the Vice Chancellor saying: "I think that the law has been settled in this state that where there 'is a close corporation and all the stock except that of the complainant is held by the defendants, complainant may sue in behalf of the corporation to require an accounting by the defendants without making any prior demand that the corporation or its officers sue.'" *Moss et al. v. Jacobowitz et al.*, New Jersey Chancery Court, July 18,

1939. Commerce Clearing House Court Decisions Requisition No. 222560. Perlman & Lerner of Trenton, for complainants. Louis P. Brenner and Isaac Gross of Jersey City, for defendants.

New York.

Municipal Court of New York City held not to have acquired jurisdiction where substituted service was attempted to be made at local branch office of company having its principal office in Buffalo. The defendant was a domestic corporation having its principal place of business in Buffalo and a branch office in New York City. Plaintiff attempted to commence this action in the Municipal Court of New York by leaving a copy of the summons, together with a copy of an order for substituted service at the branch office. The New York Supreme Court, Appellate Division, First Department, ruled that jurisdiction was not acquired, inasmuch as Sec. 231 of the Civil Practice Act requires that, in effecting substituted service, the order must direct that the service of summons be made by leaving a copy thereof and of the order at "the principal office or place of business" of a domestic corporation. "To hold otherwise," observed the court, "would grant to the Municipal Court greater power to summon defendants by substituted service than is possessed by the Supreme Court and would allow it to draw into its jurisdiction any domestic corporation having a small office or desk room in New York. The jurisdiction of the Municipal Court is limited strictly by the terms of the statutes creating and controlling it. It was not the purpose of the legislature when creating courts of limited jurisdiction to permit litigants therein to summon persons, natural or corporate, from remote portions of the state to answer suits therein." *Douglis v. New York, Chicago & St. Louis Railroad Company,* New York Supreme Court, Appellate Division, First Department, November 17, 1939. Commerce Clearing House Court Decisions Requisition No. 225524. Allen McCarty of counsel (Donald B. Riker with him on the brief; Davisson, McCarty & Lockwood, attorneys) for appellant. Nathan Canter, for respondent.

Oklahoma.

Estate of deceased director, absent at time alleged illegal dividend was declared, held not liable, under statute, to corporation or creditors. The question in this case was whether the receivers and creditors of a dissolved corporation were entitled to recover from the distributees of a deceased director any portion of a sum of $60,000 alleged to have been illegally paid as a dividend by the directors, at a meeting at which the deceased director was not present. The Oklahoma Supreme Court, finding that the statute, Sec. 9763 O. S. 1931, excepted directors not present from liability to the corporation and the creditors for dividends declared in violation of the statute, said: "The Legislature has exempted the absent director and it is not for this court, by judicial interpretation, to impose limitations

upon the express exemptions of such a penal statute." A recovery was therefore denied. *Watkinson et al. v. Adams et al.*, Oklahoma Supreme Court, October 31, 1939. Commerce Clearing House Court Decisions Requisition No. 225064.

Director ruled not liable for debts created in excess of subscribed capital stock where debts were paid prior to dissolution. In an action involving the parties in the case digested above, also based upon liability of directors outlined in Sec. 9763, O. S. 1931, in which recovery was sought for the deceased director's participation in the passing of a resolution authorizing the creation of debts in excess of the subscribed capital stock, contrary to the statute, which debts had been paid prior to dissolution of the company, the Oklahoma Supreme Court denied a recovery by ruling that "the directors of a corporation, otherwise within the terms of the statute herein, are liable for only the excessive debts of the corporation which remain unpaid on dissolution of said corporation." *Warren, Receiver, v. Adams et al.*, Oklahoma Supreme Court, October 31, 1939. Commerce Clearing House Court Decisions Requisition No. 225065.

Foreign Corporations

New York.

Corporation held doing business for purposes of anti-trust venue statute upon evidence of contract with local agent, concession privileges, sales throughout state and visits of treasurer on business. In *Vendola Corp. v. Hershey Chocolate Corp. et al.*, the United States District Court, Southern District of New York, considered a motion of one of the defendant corporations to dismiss the complaint as to it on the ground that the company did not transact business within the judicial district. The court noted that the suit had been brought under the anti-trust laws (Title 15 U. S. C. A. Sec. 15 et seq.) and observed that "it is well settled that the elements which constitute 'doing business' of a corporation within a local judicial district do not apply in anti-trust suits," and that it is sufficient, if a corporation has a well defined plan of promoting the sale of its products and if it has contracted with so-called distributors and retains a general oversight and control under its contract, for it to be regarded as transacting business within the meaning of Section 12 of the Clayton Act in order to establish a venue in a district where such acts are done. Finding the activities of the defendant mentioned came within this classification, by reason of the company's contract with a local agent, concession privileges obtained, its sales throughout the state, as well as the periodic visits of its treasurer for business purposes, the court concluded the defendant was transacting business within the meaning and intent of the anti-trust laws, so as to be properly sued in the district and therefore denied the motion to dismiss. *Vendola Corp. v. Hershey Chocolate Corp. et al.*, United States District Court, Southern District of New York, September 8, 1939. Commerce Clearing House Court Decisions Requisition No. 222077.

Edward Carey Cohen, for plaintiff. Schnader & Lewis (Sol. A. Rosenblatt and William B. Jaffe, of counsel), for defendant, Berlo Vending Co.*

* The full text of this opinion is printed in **The Corporation Tax Service**, New York, page 271.

Ontario.

Service of process upheld where made upon an Ontario transportation company as agent for a connecting Vermont transportation company, for which the former sold tickets. Plaintiffs bought tickets from an Ontario transportation company entitling them to carriage by this company from Ottawa, Ontario, to Montreal, and then by defendant Vermont company to New York. Suit was brought in Ontario for injuries sustained in defendant's car between Montreal and New York. The lower court had dismissed defendant's application to set aside service of the writ of summons which had been made upon the superintendent of the Ontario company at Ottawa, as agent for service upon the defendant corporation. The Ontario company had been engaged for some nine years in selling tickets over defendant's lines, for which a commission was retained. The Ontario Court of Appeal cited Rule 23 (Ont.), which provides in part: "Any person who, within Ontario, transacts or carries on any of the business of, or any business for, any corporation whose chief place of business is without Ontario, shall, for the purpose of being served as aforesaid, be deemed the agent thereof." The court pointed out that the selling of transportation was an integral part of the defendant's business, that the Ontario company had carried this on for the defendant for a substantial time and that the Ontario company must be held to be transacting business within Ontario for the defendant. The latter was therefore held to have been properly served. *Droeske et al. v. Champlain Coach Lines Inc.*,* (1939) 4 D. L. R. 210. J. D. Watt, for defendant, appellant. W. F. Schroeder, K. C., for plaintiffs, respondents.

* The full text of this opinion is printed in the CCH **Canadian Tax Service** page 68-031.

Washington.

Foreign broadcasting corporation, found to be engaged in interstate commerce, held subject to jurisdiction of state where station through which it had transmitted programs was located. Service of process, which it was sought to have nullified, was made upon a New York broadcasting company in the State of Washington by leaving the summons and a copy of the complaint with the general manager of a Washington corporation operating a station there through which the programs of the New York company had been broadcast. The Supreme Court of Washington denied a writ of prohibition which had been applied for to prevent the lower court from taking jurisdiction, reaching the conclusion that the New York

corporation was engaged in interstate commerce. "If engaged in that commerce," observed the court, "it necessarily follows that it was doing business in this State." Justice Robinson dissented. *State ex rel. Columbia Broadcasting Co. v. Superior Court for King County et al.,** 96 P. 2d 248. Bogle, Bogle & Gates and Ray Dumett of Seattle, for relator. Poe, Falknor, Emory & Howe of Seattle, for respondent.

* The full text of this opinion is printed in **The Corporation Tax Service**, Washington, page 304.

Wisconsin.

Service of process set aside in patent infringement suit, where substantial part of defendant's business was not conducted in district, even though an office was maintained. The United States District Court, Eastern District, Wisconsin, has set aside service of process in an infringement of patent suit. Noting that in such suits, Sec. 48 of the Judicial Code, 28 U. S. C. A. Sec. 109, gives the Federal District Courts jurisdiction in any district in which the defendant shall have a regular and established place of business, the court concluded that inasmuch as no substantial part of defendant's ordinary business was conducted in Wisconsin, defendant did not have a regular and established place of business in the court's judicial district, where it merely had an office in Wisconsin where samples of defendant's pumps were kept on display and where it was shown orders taken were sent to Iowa for acceptance or rejection and shipments were made from Iowa direct to the purchaser. Other facts were that collections were made from Iowa and the agent in charge of the Wisconsin office had no authority to pass on credits or bind the defendant by any contract. No stock was carried in Wisconsin other than the display samples. *Haight v. Viking Pump Co. of Delaware,** 29 F. Supp. 575. S. L. Wheeler of Wheeler, Wheeler & Wheeler of Milwaukee, for plaintiff. J. B. Newman of Newman & Newman of Cedar Falls, Iowa, for defendant.

* The full text of this opinion is printed in **The Corporation Tax Service**, Wisconsin, page 518.

Taxation

California.

Deed, not previously adjudged invalid, given by corporation whose powers had been suspended for failure to pay the franchise tax, held to convey good title. The powers of a California corporation had been suspended for failure to pay its franchise tax. Subsequently, while the suspension remained in effect, the corporation executed a deed, purporting to divest it of title to certain premises owned. Under Section 32 of the Bank and Corporation Franchise Tax Act, every contract made in violation of the section was declared to be voidable. The execution of the deed being an act in violation of the

section, plaintiff, a subsequent purchaser, brought this action to quiet his title to the realty. The District Court of Appeal, Third District, affirmed a judgment in favor of the plaintiff, ruling that the deed was merely voidable in the first instance and not void, and, there having been no adjudication since, adjudging its invalidity, it operated to convey title to the grantee. A mortgage given by the grantee was held to have created a lien upon the property. *Myrick v. O'Neill et ux.*,* 92 P. 2d 651. Commerce Clearing House Court Decisions Requisition No. 220570. O. H. Myrick and Albert S. Brown, of Los Angeles, for appellant. Avery M. Blount and B. B. Gillette of Los Angeles, for respondents.

* The full text of this opinion is printed in **The Corporation Tax Service, California, page 844.**

Property tax levy upon stock certificates to extent representing property outside of state, upheld. The plaintiff owned stock in certain corporations, the assets of which were located wholly or in part outside of California. For the years 1933-1934, 1934-1935 and 1935-1936, these stock certificates were assessed to the extent that their value represented property outside the state. This action was instituted to secure a refund of taxes so paid. The California District Court of Appeals, Fourth Appellate District, ruled that the levy was a valid one. Referring to plaintiff's contention that the tax violated the equal protection clause of the fourteenth amendment to the Federal Constitution and that it was also discriminatory against him as a citizen of the United States in a sense forbidden by that amendment, the court said: "While it is conceded that property may be classified for the purposes of taxation it is argued that the taxing of corporate shares in this state, to the extent of the value of assets of the corporation which are without the state, results in a classification which must be based solely on the location of the assets of the issuing corporation or based solely upon the admitted impossibility of taxing in this state tangible property which is located out of the state, and that either of such classifications is arbitrary, unreasonable and based upon no ground of difference which has a fair and substantial relation to the object of the legislation. The appellant overlooks the fact that such a classification may be based upon the ground that such shares of stock represent valuable property in this state which would not otherwise be taxed here, although similar property, consisting of corporate shares representing assets which are located in this state, are taxed here under other statutes." *Lacoe v. San Diego County*,* 92 P. 2d 809. Holbrook & Tarr and W. Sumner Holbrook, Jr., of Los Angeles, for appellant. James B. Abbey, Dist. Atty., and V. C. Winnek, Deputy Dist. Atty. of San Diego, for respondent. *(Petition for hearing denied by California Supreme Court, September 14, 1939. Appeal filed in the Supreme Court of the United States, December 1, 1939; Docket No. 564. Appeal dismissed, January 2, 1940, for want of a substantial Federal question.)*

* The full text of this opinion is printed in **The Corporation Tax Service, California, page 3096.**

ESITATION

But... as the famous old recipe for Potted Hare began, "First catch your Hare," so the recipe for Statutory Representation, CT style, really begins "First get your lawyer." For to have CT Representation a corporation must have a lawyer. There is no other way. That was made The Corporation Trust Company's policy at its founding in 1892, has been its policy ever since.

Canada.

The Judicial Committee of the Privy Council rules that where a company acquires assets from another company, the separate corporate entities are not to be disregarded, notwithstanding the identity of the shareholders, and depreciation is to be allowed to the acquiring company even though the assets had previously been fully depreciated by a predecessor company. Appellant company, in filing its return under the Income War Tax Act in 1933, claimed various deductions, including allowances for depreciation of 10% on certain machinery and equipment, horses and furniture and fixtures, and 20% on automobiles. These claims were disallowed with certain minor exceptions as to the automobiles, and appellant pursued its appeal to the Judicial Committee of the Privy Council. That body in its opinion noted that the appellant had acquired the property, in respect of which depreciation had been disallowed, from another company at a price fixed by an independent appraisal and that the correctness of the valuation was not challenged by the respondent. It ruled that the Minister of National Revenue, under a statute permitting "such reasonable amount as the Minister, in his discretion, may allow for depreciation," was not entitled, "in the absence of fraud or improper conduct, to disregard the separate legal existence of the appellant company and to enquire as to who its shareholders were and its relation to its predecessors. The taxpayer is the company and not its shareholders." Setting the assessment aside and referring it back to the respondent, the Judicial Committee observed: "It becomes unnecessary to consider a further question which was debated, namely, as to whether a taxpayer, who has already received in previous tax years allowance for depreciation amounting to 100% of the book value of the assets, is entitled to any further allowances." *Pioneer Laundry & Dry Cleaners, Ltd. v. Minister of National Revenue,** (1939) 4 D. L. R. 481. Martin Griffin, K. C., for appellants. F. P. Varcoe, K. C., and Frank Gahan, for respondent.

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* The full text of this opinion is printed in the CCH **Canadian Tax Service**, page 8089.

Kentucky.

Kentucky Court of Appeals holds Chain Store Tax invalid upon second appeal. Upon a second appeal, the Kentucky Court of Appeals has affirmed its previous judgment in *The Great Atlantic & Pacific Tea Co. v. Kentucky Tax Commission et al.*, 128 S. W. 2d 581; The Corporation Journal, June, 1939, page 423, holding the Kentucky Chain Store Tax imposed by Chapter 26 of the Extraordinary Session of 1934, as amended, invalid upon the ground that it provided an unreasonable and arbitrary classification of those engaged in the trade or occupation of a merchant for the purpose of taxation. *Kentucky Tax Commission et al. v. The Great Atlantic & Pacific Tea*

*Company,** Kentucky Court of Appeals, November 24, 1939. Commerce Clearing House Court Decisions Requisition No. 225939. Hubert Meredith, Attorney General, A. E. Funk, Asst. Atty. General, of Frankfort, for appellant. Carroll, McElwain & Ballentine of Louisville, for appellee.

* The full text of this opinion is printed in **The Corporation Tax Service, Kentucky, page 4815.**

Missouri.

Missouri company, transacting business within and without state, held entitled to allocation of income tax, even though no branch office was maintained outside Missouri. Plaintiff corporation, with its principal office and warehouse in St. Louis and a branch in Kansas City, sold merchandise to customers in Missouri, Kansas, Illinois and Kentucky, its business also including the rendering of repair services on machinery sold. Plaintiff was not authorized to do business in the states mentioned other than Missouri, in which its salesmen traveled, securing orders subject to approval in St. Louis, shipment of goods purchased being made from Missouri warehouses by rail or truck. Under these circumstances, the State Auditor had refused to allow the corporation an allocation of its Missouri income tax and plaintiff sued to reduce the assessment to the amount which would have been payable had an allocation been permitted. The statute provided for the taxation of income of domestic corporations "from all sources in this state" and permitted an allocation which provided, in part, that "income shall include all gains, profits and revenues from the transactions of the business of the corporations in this state, including gains, profits and revenues from the doing in this state of such portions of each transaction of the business of the corporation which transaction is partly done in this state and partly done in another state or states." The Missouri Supreme Court adopted a court commissioner's opinion which held plaintiff was entitled to an allocation of its income and which ruled that the maintenance of a branch office in another state was not necessary in order that an allocation could be had under the statute. *The Artophone Corporation v. Coale et al.,** 133 S. W. 2d 343. Commerce Clearing House Court Decisions Requisition No. 222046. Lewis, Rice, Tucker, Allen & Chubb, Robert T. Burch, and Philip A. Maxeiner, all of St. Louis, for appellant. Roy McKittrick, Atty. Gen., and Russell C. Stone, Asst. Atty. Gen., for respondents. Cobbs, Logan, Roos & Armstrong, of St. Louis, Borders, Warrick & Hazard, of Kansas City, David Baron, Wm. F. Fahey, A. B. Frey, E. A. B. Garesche, Nagel, Kirby, Orrick & Shepley, Sullivan, Reeder & Finley, and Karal A. Korngold, all of St. Louis, Allen C. McReynolds, of Carthage, and John C. Vaughan, of St. Louis, amici curiae.

* The full text of this opinion is printed in **The Corporation Tax Service, Missouri, page 1601.**

Appealed to The Supreme Court

The following cases previously digested in The Corporation Journal have been appealed to The Supreme Court of the United States.*

CALIFORNIA. Docket No. 564. *Lacoe v. County of San Diego,* 92 P. 2d 809. (The Corporation Journal, March, 1940, page 107.) Property tax on portion of resident's stock certificates representing property owned by the corporations outside of California. **Appeal filed, December 1, 1939. January 2, 1940:** *Per curiam: The appeal is dismissed for want of a substantial federal question. Kidd v. Alabama,* 188 U. S. 730; *Darnell v. Indiana,* 226 U. S. 390, 398.

MINNESOTA. Docket No. 500. *State of Minnesota v. National Tea Co. et al.,* 286 N. W. 360; affirming decision of District Court, Second Judicial District, Ramsey County, Minnesota, in *Hahn Department Stores, Inc. v. State of Minnesota,* (The Corporation Journal, January, 1938, page 86.) Constitutionality of prior Minnesota chain store tax imposed by Laws 1933, Ch. 213. **Appeal filed, November 3, 1939. Certiorari granted, December 11, 1939.**

MISSISSIPPI. Docket No. 77. *Interstate Natural Gas Co. v. Stone,* 103 F. 2d 544. (The Corporation Journal, October, 1939, page 16.) Franchise tax on foreign pipe line company engaged in interstate commerce. **Appeal filed, May 29, 1939. Certiorari granted, June 5, 1939. December 4, 1939: Leave granted Mr. Maxwell Bramlette to appear and present oral argument for the petitioners, pro hac vice. Argument commenced for the petitioners. The Court declined to hear further argument. December 11, 1939:** *Per Curiam.* The judgment is affirmed. *Southern Gas Corporation v. Alabama,* 301 U. S. 148, 153, 156-157. **Rehearing denied, January 8, 1940.**

NEW YORK. Docket No. 45. *McGoldrick, Comptroller of the City of New York v. Felt & Tarrant Mfg. Co.,* 4 N. Y. S. 2d 615; (The Corporation Journal, December, 1938, page 282), affirmed without opinion, New York Court of Appeals, 279 N. Y. 678, 18 N. E. 2d 311. Constitutionality of New York City sales tax as applied to shipments which may be in interstate commerce. **Appeal filed, May 8, 1939. Certiorari granted, June 5, 1939. Argued, January 2, 1940.**

TEXAS. Docket No. 17. *Ford Motor Company v. Edward Clark, Secretary of the State of Texas et al.,* 100 F. 2d 515. (The Corporation Journal, April, 1939, page 376.) State annual franchise tax on corporations—basis of tax. **Petition for certiorari filed, March 15, 1939. Petition granted, April 3, 1939. Motion to substitute Tom L. Beauchamp, present Secretary of State, and Gerald Mann, present Attorney General, as parties respondent in place of Edward Clark and William McCraw, respectively, granted, May 1, 1939. Argued, October 16 and 17, 1939. Affirmed, December 11, 1939.** (The Corporation Journal, January, 1940, page 88.) **Rehearing denied, January 15, 1940.**

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* Data compiled from CCH **U. S. Supreme Court Service, 1939-1940.**

Regulations and Rulings

CALIFORNIA—The State Board of Equalization has provided by regulation for the filing of Use Tax Information Returns quarterly, on or before January 15, April 15, July 15 and October 15, "by all persons who solicit orders for the sale of tangible personal property, the storage, use, or other consumption of which is subject to the tax, and the sellers of which do not hold sellers' permits under the Retail Sales Tax Act, or certificates of registration and authority to collect the tax under the Use Tax Act." (California CT (Corporation Tax) Service, ¶ 64-214).

MICHIGAN—Preliminary rules and regulations have been adopted by the Michigan State Tax Commission relating to the Intangibles Tax Law, in connection with which the first returns will be due on or before March 1, 1941. Regulation 17 provides that every domestic and foreign corporation, doing business in Michigan will be required to file with the Michigan State Tax Commission, commencing with the year 1940, a copy of its return filed annually with the Michigan Corporation and Securities Commission in connection with the payment of its annual privilege fee, concurrently with the filing of the original thereof, for the purpose of assisting the Tax Commission in arriving at the percentage of the property of the corporation located outside of Michigan. On or before March 1, 1941, each domestic and foreign corporation, doing business in Michigan, will be requested to file with the Michigan State Tax Commission, under Regulation 18, a list containing the names, addresses and amount of its stock held by each Michigan resident shareholder, as of the latest available records of the corporation. In case the corporation shall have declared a dividend during the preceding calendar year, such list, in so far as the holders of such stock are concerned, may be a copy of the information filed with respect thereto with the Department of Internal Revenue. (Michigan CT, ¶¶ 28-801—28-822.)

The State is allowed to tax sales of material to contractors or sub-contractors who are doing work for the Detroit Housing Commission, the Home Owners' Loan Corporation, or other governmental agencies. (Opinion of the Attorney General, Michigan CT, ¶ 65-006.)

TEXAS—As to domestic corporations, the Attorney General has ruled that there is no statutory authorization for the collection by the Secretary of State of a supplemental franchise tax upon the filing of a charter amendment increasing the capital stock of a corporation during the franchise tax year 1940, the 1940 tax having been paid on its due date on the basis of the old capitalization. (Texas CT, ¶ 1437.) The Secretary of State is not authorized to collect a supplemental franchise tax under H. B. 934, Laws of 1939, where a consolidation of warehouse and grain elevator corporations increases the taxable capital of the proposed corporation over the combined taxable capital of such corporations consolidating, since Sec. 3 of H. B. 934 is void, in the opinion of the Attorney General of Texas, under Sec. 36, Article III, Texas Constitution. (Texas CT, ¶ 1438.)

Some Important Matters for February and March

This Calendar does not purport to be a *complete* calendar of all matters requiring attention by corporations in any given state. It is a condensed calendar of the more important requirements covered by the *State Report and Tax Bulletins* of The Corporation Trust Company. Attorneys interested in being furnished with timely and complete information regarding *all* state requirements in any one or more states, including information regarding forms, practices and rulings, may obtain details from any office of The Corporation Trust Company or C T Corporation System.

ALABAMA—Annual Franchise Tax Return due between January 1 and March 15.—Domestic and Foreign Corporations.

Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

Annual Franchise Tax due April 1, but may be paid without penalty until April 30.—Domestic and Foreign Corporations.

ALASKA—Annual Report due within 60 days from January 1.—Domestic and Foreign Corporations.

ARIZONA—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

Annual Statement of Mining Companies due between January 1 and April 1.—Domestic and Foreign Corporations engaged in mining of any kind.

ARKANSAS—Franchise Tax Report due on or before March 1.—Domestic and Foreign Corporations.

CALIFORNIA—Returns of Information at the source and Returns of Tax Withheld at the source due on or before February 15.—Domestic and Foreign Corporations.

Franchise (Income) Tax Return due on or before March 15.—Domestic and Foreign Corporations.

COLORADO—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Annual Report due on or before March 15.—Domestic and Foreign Corporations.

CONNECTICUT—Annual Report due on or before February 15 (if corporation was organized or qualified between January 1 and June 30 of any previous year).—Domestic and Foreign Corporations.

Income Tax Return due on or before April 1.—Domestic and Foreign Corporations.

DELAWARE—Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations making certain payments of dividends, interest or other income to citizens or residents of Delaware during 1939.

DISTRICT OF COLUMBIA—Income Tax Return due on or before March 15.—Domestic and Foreign Corporations.

DOMINION OF CANADA—Returns of Information at the source due on or before February 28.—Domestic and Foreign Corporations.

GEORGIA—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

Report of Resident Stockholders and Bondholders due on or before March 1.—Domestic and Foreign Corporations.

IDAHO—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

ILLINOIS—Annual Report due between January 15 and February 28.—Domestic and Foreign Corporations.

IOWA—Income Tax Return, Returns of Information at the source and Returns of Tax Withheld at the source due on or before March 31.—Domestic and Foreign Corporations.

KANSAS—Returns of Information at the source due on or before March 1.—Domestic and Foreign Corporations.

Annual Report and Franchise Tax due on or before March 31.—Domestic and Foreign Corporations.

KENTUCKY—Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

LOUISIANA—Capital Stock Statement due on or before March 1.—Foreign Corporations.

MAINE—Annual License Fee due on or before March 1.—Foreign Corporations.

MARYLAND—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Returns of Tax Withheld at the source due on or before February 15.—Domestic and Foreign Corporations.

Annual Report due on or before March 15.—Domestic and Foreign Corporations.

Income Tax Return due on or before March 15.—Domestic and Foreign Corporations.

MASSACHUSETTS—Returns of Information at the source due on or before March 1.—Domestic and Foreign Corporations.

MINNESOTA—Returns of Information at the source due on or before March 1.—Domestic and Foreign Corporations.

Income Tax Return due on or before March 15.—Domestic and Foreign Corporations.

Annual Report due between January 1 and April 1.—Foreign Corporations.

MISSISSIPPI—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

MISSOURI—Returns of Information at the source due on or before March 1.—Domestic and Foreign Corporations.

Annual Franchise Tax Report due on or before March 1.—Domestic and Foreign Corporations.

Income Tax Returns due on or before March 15.—Domestic and Foreign Corporations.

MONTANA—Annual Report of Capital Employed due between January 1 and March 1.—Foreign Corporations qualified after February 27, 1915.

MONTANA (Continued)—Annual Return of Net Income due on or before March 1.—Domestic and Foreign Corporations.

Annual Report due on or before March 1.—Domestic and Foreign Corporations.

Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

NEVADA—Annual Statement of Business due not later than the month of March.—Foreign Corporations.

NEW HAMPSHIRE—Annual Return due on or before April 1.—Domestic and Foreign Corporations.

Franchise Tax due on or before April 1.—Domestic Corporations.

NEW JERSEY—Annual Franchise Tax Return due on or before the first Tuesday in February.—Domestic Corporations.

NEW MEXICO—Franchise Tax Return due on or before March 15.—Domestic and Foreign Corporations.

Returns of Information at the source due on or before April 1.—Domestic and Foreign Corporations.

NEW YORK—Returns of Information at the source and Returns of Tax Withheld at the source due on or before February 15.—Domestic and Foreign Corporations.

Annual Franchise Tax Report and Tax of Real Estate and Holding Corporations due between January 1 and March 1.—Domestic and Foreign Real Estate and Holding Corporations.

NORTH CAROLINA—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

NORTH DAKOTA—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

Annual Report due between January 1 and April 1.—Foreign Corporations.

OHIO—Annual Franchise Tax Report due between January 1 and March 31.—Domestic and Foreign Corporations.

Annual Statement of Proportion of Capital Stock due between January 1 and March 31.—Foreign Corporations.

OKLAHOMA—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Income Tax Return due on or before March 15.—Domestic and Foreign Corporations.

OREGON—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Excise (Income) Tax Return due on or before March 31.—Domestic and Foreign Corporations.

PENNSYLVANIA—Capital Stock Tax Report and Tax, Corporate Loans Report and Tax and Bonus Tax Report due on or before March 15.—Domestic Corporations.

PENNSYLVANIA (Continued)—Franchise Tax Report and Tax, Corporate Loans Tax Report and Tax and Bonus Tax Report due on or before March 15.—Foreign Corporations.

RHODE ISLAND—Annual Report due during February.—Domestic and Foreign Corporations.

Corporation Tax Return due on or before March 1.—Domestic and Foreign Corporations.

SOUTH CAROLINA—Annual License Tax Report due during February.—Domestic and Foreign Corporations.

Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

SOUTH DAKOTA—Annual Capital Stock Report due before March 1.—Foreign Corporations.

Income Tax Return and Returns of Information at the source due on or before March 31.—Domestic and Foreign Corporations.

TEXAS—Annual Franchise Tax Report due between January 1 and March 15.—Domestic and Foreign Corporations.

UNITED STATES—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Annual Return of Net Income due on or before March 15.—Domestic and Foreign Corporations having an office or place of business in the United States.

UTAH—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Income (Franchise) Tax Return due on or before March 15.—Domestic and Foreign Corporations.

VERMONT—Returns of Information at the source due on or before February 15.—Domestic and Foreign Corporations.

Annual Report due on or before March 1.—Domestic Corporations.

Annual License Tax Return and Payment due on or before March 1.—Domestic and Foreign Corporations.

Extension of Certificate of Authority due on or before April 1.—Foreign Corporations.

VIRGINIA—Annual Registration Fee due on or before March 1.—Domestic and Foreign Corporations.

Annual Franchise Tax due March 1.—Domestic Corporations.

WEST VIRGINIA—Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

WISCONSIN—Income Tax Return and Returns of Information at the source due on or before March 15.—Domestic and Foreign Corporations.

Annual Report due between January 1 and April 1.—Domestic and Foreign Corporations.

The Corporation Trust Company's Supplementary Literature

In connection with its various activities The Corporation Trust Company publishes the following supplemental pamphlets, any of which will be sent without charge to readers of The Journal. Address The Corporation Trust Company, 120 Broadway, New York, N. Y.

Spot Stocks—and Interstate Commerce. Treats, in a general and informal way, of the relation between the carrying of goods in warehouses in outside states and the statutory obligations which that activity, in some states, places on the corporation owning the goods.

What Constitutes Doing Business. (Revised to March 15, 1939.) A 184-page book containing brief digests of decisions selected from those in the various states as indicating what is construed in each state as "doing business." The digests are arranged by state, but a Table of Cases and a Topical Index make them accessible also by either case name or topic. There is also a section containing citations to cases on the question of doing business such as to make the company subject to service of process in the state.

When a Corporation Leaves Home. A simple explanation of the reasons for and purposes of the foreign corporation laws of the various states, and illustrations of when and how a corporation makes itself amenable to them. Of interest both to attorneys and to corporation officials.

We've Always Got Along This Way. This is a 24-page pamphlet giving brief digests of cases in various states in which corporation officials who had thought they were getting along very well with statutory representation by a business employe suddenly found themselves penalized in unusual and often embarrassing ways: such as one company that had to pay its employe-representative's alimony.

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A Corporation's Achilles Heel. Containing the complete text of the opinion of the Supreme Court of the United States in State of Washington ex rel. Bond & Goodwin & Tucker, Inc. v. Superior Court, State of Washington, of the Supreme Court of New Mexico in Silva v. Crombie & Co., and of the Supreme Court of Michigan in Rarden v. R. D. Baker Co.—three decisions of great significance to attorneys of corporations qualified in one or more states.

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